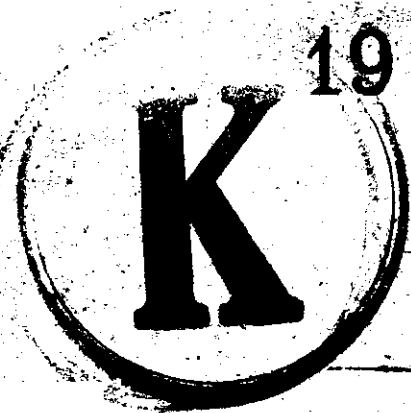




1947.

O. Pleaders
File No. 47

Legal Department

A BRANCH

Subject:—

Opinions under the

Bombay Pleaders Act, 1920

P 3F

O. Pleaders / 47

File No.

Gen. 1940

414-A

C O N T E N T S.

Legal Department File No. O. Pleaders/1947.

Sr. No.	R.I./	O.No.	Subject	Pages
------------	-------	-------	---------	-------

Opinions under the Bombay
Pleaders Act, 1920.

1. 6627
 26.6.47

Seds. 25 and 26

Food Control Regulations.

Questions (1) Whether the invitee
can be prosecuted as abettors. and
(2) The Govt. Pleader, Poona, can be
directed to file an application to
the District Judge requesting him to
take notice of the conduct of the
practising pleaders who were found
lunching at Vadgaon in contravention
of the Food Control Regulations.

1-2-

PHB
7/8
MUS
7/8

Improper conduct (59 Mad.782) "Misconduct" in a Solicitor justifying the disciplinary jurisdiction of the Court is not confined to professional misconduct but extends to conduct which shows him to be an unworthy member of the legal profession (Re, Hears, 1893 2. Q.B. 439).

The question material for consideration would be whether the pleaders in attending the dinner at Vadgon arranged in contravention of the Food Control Regulations were guilty of misconduct or improper conduct. These pleaders cannot be prosecuted for the contravention of the F.D.(Supply) Order No.390/F.A.C.-VI, dated the 8th March 1946, either as principal offenders or as abettors. Then could it be possible to say that by attending the luncheon held in contravention of F.D.(Supply) Order No.390/F.A.C.-VI dated the 8th March 1946, the pleaders have proved themselves to be unworthy members of the legal profession? In Sir Janshed Kanga v. Kaikhushnu (36B.L.R.1136) at page 1150 Beaumont C.J. observed:

"It is enough to say that in our opinion merely having been members, or assisted the operation, or managed the affairs of an unlawful association does not render the advocate unfit for the exercise of his profession. Such conduct does not necessarily involve moral turpitude, or any attack upon the system of which this court forms part etc."

If the membership, assistance of the operation or management of the affairs of an unlawful association by pleaders involves no misconduct, much less would be the mere attendance of a dinner held in contravention of F.D. (Supply) Order dated the 8th March 1946. Consequently no action against the pleaders, it appears, would be legally feasible. Since however Mr. Sanas is going to be prosecuted, all the facts relating to the case would be before the Court. After the case against Mr. Sanas is disposed of, the question of taking any action against the pleaders might be considered by Government in the light of the findings of the court.

Sd/-
Remembrancer of Legal Affairs.

U.R. to H.D. No.6627, Dated the 26th June 1947.

*(see
R.L.A.'s
opinion
No.239-
conf.
dated
the
5.6.1947)

M.R.D.
9-7-56
C.4

The first question raised for the consideration of the R.L.A. is whether the invitees can be prosecuted as abettors. This question was fully considered by the R.L.A. in his opinion 239 Confl. dated the 5th June 1947, a copy of which is herewith forwarded to the Home Department for perusal.

The second question for consideration is whether the Government Pleader, Poona can be directed to file an application to the District Judge requesting him to take notice of the conduct of the practising pleaders who were found lunching at Vadgaon in contravention of the Food Control Regulations.

Section 25 of the Bombay Pleaders Act, 1920, inter alia provides for the power of the High Court on a report from a District Court to suspend or remove from practice, or fine or reprimand a pleader on reasonable cause. Section 26 enacts that where it appears to a District Court or Court of Session or etc. that a pleader has been guilty of neglect of duty or of a violation of any of the provisions of this Act or of any improper conduct, such court may hold an inquiry regarding such conduct and report the result of such inquiry to the high Court. In Sir Jamshed Kanga. v. Kaikhushru (36 Bom.L.R. 1136) it was held:

"Under section 25 of the Bombay Pleaders Act, 1920, the High Court is empowered to take action against pleaders on 'reasonable cause'. There is no substantial difference between a case dealt with under the Bombay Pleaders Act, and a case dealt with under the Indian Bar Councils Act for 'misconduct'. A cause cannot be considered reasonable for taking disciplinary action against the pleader unless the pleader has been guilty of misconduct, and if misconduct is proved, that amounts to reasonable cause".

The term "misconduct" implies a wrongful intention, and not a mere error of judgement; it is not necessarily the same thing as conduct involving moral turpitude (15 Lah. 354). The word "misconduct" is a relative term and has to be construed with reference to the subject matter and context wherein the term occurs, having regard to the scope of the Act or statute which is being construed. Literally it means wrong conduct or